

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

GORDON A. SIMMONS)
AND SIEGLINDE K. SIMMONS)
PLAINTIFFS)
V.) DOCKET No. 1:17-cv-00159-PB
SERVICE CREDIT UNION,)
DEFENDANT)

PLAINTIFFS' MOTION TO REMAND

NOW COME the Plaintiffs, Gordon A. Simmons and Sieglinde K. Simmons, and respectfully move to remand this action to New Hampshire's Rockingham County Superior Court. In support of their Motion, the Plaintiffs state:

1. The Court does not have subject matter jurisdiction over the matter because there are no federal question claims. The Defendant removed on the basis of preemption under the Employment Retirement Security Act of 1974, but the Plaintiffs' claims do not relate to an "employee benefit plan" under ERISA. Since the Plaintiffs' state law claims do not relate to an "employee benefit plan" under ERISA, they are not preempted and this Court does not have jurisdiction over the case.

2. In support of this Motion, the Plaintiffs reference the accompanying Memorandum.
3. Due to the nature of the Motion, Service Credit Union's assent was not sought.

WHEREFORE, the Plaintiffs, Gordon A. Simmons and Sieglinde K. Simmons, respectfully request that the Honorable Court:

- A. Grant the within Motion to Remand;
- B. Remand this case to New Hampshire's Rockingham County Superior Court; and
- C. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

GORDON A. SIMMONS and
SIEGLINDE K. SIMMONS

By their attorneys,
SHAINES & McEACHERN, P. A.

Dated: May 27, 2017

/s/ Paul McEachern

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, a copy of the foregoing will be sent electronically to counsel of record for all parties who are registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Paul McEachern

Paul McEachern #1679